

Application No.: 09/857,947

Docket No.: ALBIHN W 3.3-407

**IN THE DRAWINGS**

Attached hereto is an amended FIG. 1. The revisions of FIG. 1 are fully supported by the application, as originally filed, and thus, do not constitute new matter.

Attachment: Replacement Sheet

**REMARKS**

This Amendment is in response to the Official Action mailed October 5, 2005. Claims 21 and 33 have been amended. Claims 30 and 38 have been cancelled. Claims 41-52 are new. Thus, claims 21-29, 31-37 and 39-52 are currently pending. The following sets forth Applicant's remarks.

As an initial matter, Applicant thanks the Examiner for conducting a lengthy telephone discussion of March 21, 2006 with Applicant's counsel. Per the Examiner's suggestions set forth in that telephone discussion, the present Amendment is being submitted with the understanding that should the Examiner conduct further searching of previously unsearched subclasses, she will contact Applicant's counsel prior to issuing another Action in the present matter. Nonetheless, the included amendments and following arguments are believed to overcome the objections and rejections set forth in the outstanding action.

With regard to the Official Action, the Examiner has first objected to the drawings under 37 C.F.R. § 1.83(a). Essentially, it is the Examiner's position that the drawings do not show each and every feature of the invention specified in the claims, and more particularly that the drawings must show a control device, means for shifting, a motor controlled by commands from the control device, means for controlling the speed of each unit and wherein the plurality of selectable paths are vertically spaced. It is first noted that the means for shifting are clearly depicted in the drawings as shifting unit (6, 6a and 6c). It is also noted that dependent claims 30 and 38, which included the vertically spaced limitation, have been cancelled from the present application, and thus, such limitations need not be shown in the drawings.

Finally, reference numerals 11-13 have been added to FIG. 1 in order to identify the control device, conveyor, and motor controlled by commands from the control device,

respectively. The amendment of the drawings to include and refer to the control device is supported by the disclosure of paragraph [0026] of the present specification. Reference numeral 11 has been not only added to FIG. 1, but also to the disclosure of paragraph [0026] for clarity purposes. In addition, per the Examiner's request, the means for controlling the speed of each unit is shown as conveyor 12 in FIG. 1, and the motor being controlled by the control device is shown in FIG. 1 as reference numeral 13. Both of these amendments are also supported by paragraph [0026] of the present specification, and such paragraph has also been amended to include the reference numerals. All of these amendments to the drawings and specification do not constitute new mater and are fully supported by the present specification as originally filed. In light of all of the above, it is respectfully requested that the objections to the drawings be removed.

Further in the Official Action, the Examiner has rejected claims 21-26, 28, 29, 31-34, 36, 37, 39 and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,988,356 to Bonnet ("Bonnet"), claims 27 and 35 under 35 U.S.C. § 103(a) as being obvious in view of Bonnet, and claims 30 and 38 under 35 U.S.C. § 103(a) as being obvious over Bonnet in view of U.S. Patent No. 6,227,377 also to Bonnet ("Bonnet II"). Essentially, with regard to independent claims 21 and 33 of the present application, the Examiner is of the opinion that Bonnet discloses each and every element of those claims. Namely, the Examiner notes elements 14a and 14b of Bonnet as relating to an incoming feeder track, elements 16a-16d as relating to an outgoing feeder track and shifting device 40 as relating to at least one shifting device for controlled shifting of the flow from the incoming feeder track to the outgoing feeder track. Further, the Examiner notes control device 96 of Bonnet as being capable of controlling the speed of

each unit and of determining proper shifting of the shifting device. Finally, the Examiner notes that column 4, lines 13-19 of Bonnet teach the creation of a separation which allows for the controlled shifting of units within the flow without interfering with the continuous flow. As the remaining claims of the present application are dependent claims that properly depend upon the aforementioned independent claims, Applicant need not address each and every rejection of such claims in the present Response. Rather, Applicant sets forth below arguments specifically relating to independent claims 21 and 33.

With regard to the Bonnet reference, it is respectfully submitted that such reference teaches a sorting assembly which is adapted for sorting one incoming unit, arriving from a plurality of incoming paths to a particular outgoing path. The invention of Bonnet is arranged so that the speed of the incoming path is controlled so that only one unit is being sorted by the sorting assembly at a time and said unit may be forwarded from a number of upstream conveyors to a number of downstream conveyors. More particularly, in order to feed only one article at a time to the shifting unit or carrying conveyor, the speeds of the upstream conveyors are controlled (see column 4, lines 16-24). This is quite different as compared with the operation of the present invention. In contrast to Bonnet, the present invention relies on an incoming feeder track which comprises a transport device for feeding said units at a predetermined speed towards the shifting unit, where thereafter, the shifting unit varies the speed of the units in order to create a controlled separation of said units. This is simply not taught by Bonnet, and in fact, as Bonnet is arranged for sorting one unit at a time, there is simply no need for any mechanism which separates two consecutive units in a sorting and shifting stage.

Nonetheless independent claims 21 and 33 have been amended to further clarify that units entering the shifting device are accelerated by the shifting device to provide separation of the units so that each unit may be guided to a selectable path of an outgoing feeder track. This not only allows for sorting at tremendously high speeds (e.g.-in the magnitude of 300 to 500 units per minute), but also for the overall reduction in size of the sorting assembly. Where traditional distribution and balancing machines require longer distances of feeding conveyors and accumulation of products on conveyors to secure the same balance at the same throughput, the present invention allows for a shorter distance between the upstream and downstream conveyors and enables a more compact layout in installation. This in turn requires less floor space and improves the operator's access and proximity to the machine. In short, the present invention is based on the principal that the shifting unit is arranged to both control the speed of the articles and to direct the articles to a number of selectable paths in a simultaneous manner. This provides the above-mentioned benefits to the overall sorting assembly.

As none of the prior art cited in the present matter to this point teaches the apparatus claimed in claims 21 and 33, allowance of such claims is respectfully requested. In addition, as is briefly mentioned above, given that the remaining claims depend upon either independent claim 21 or independent claim 33, such claims also necessarily constitute allowable subject matter. This includes new claims 41-52 which have been added to further clarify certain aspects of the present invention. Therefore, in light of all of the above, it is respectfully requested that currently pending claims 21-29, 31-37 and 39-52 be allowed.

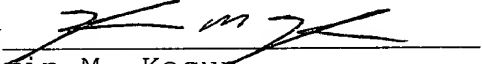
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 4, 2006

Respectfully submitted,

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